



Minutes of the IT Investment Board

October 15, 2003

Attendance

Members Present:

The Honorable George C. Newstrom (Chairman); Jimmy Hazel; Hiram Johnson; John Lee; James McGuirk, Dr. Mary Guy Miller; Scott Pattison, Len Pomata; Walter Kucharski (ex officio—non-voting).

Members Absent:

Chris Caine

Call to Order

The Chairman called the meeting of the Virginia Information Technology Investment Board to order at 10:15 a.m. Nine of the ten members were recorded as present by roll call. Attendees were advised of the availability of the meeting agenda located in the rear of the meeting room.

Approval of Minutes

The Chairman stated that due to an oversight at the last meeting, the Board would be approving the minutes of both the August 5th and the September 25th board meetings.

Jimmy Hazel made a motion that the minutes of the August 5, 2003 meeting be approved. Dr. Mary Guy Miller seconded motion. Len Pomata made a motion that the minutes of the September 25, 2003 meeting be approved. John Lee seconded motion. There being no discussion, the minutes of both meetings were approved as written.

Legislative Update

Chairman Newstrom expressed his appreciation to Senator Walter Stosch, Delegate Joe May and Delegate Sam Nixon for agreeing to meet with ITIB to discuss the legislative intent of VITA and the ITIB.

Delegate May explained the format of the presentations to be made by Senator Stosch and Delegate Nixon. Delegate Nixon's presentation would give an overview addressing where Virginia has been, its current position, and the direction in which it is headed in regards to information technology. Senator Stosch's presentation would address the legislative intent of VITA and the ITIB and its functions.

Delegate Nixon focused on the compelling reasons for the creation of VITA.

Background of IT structure in the Commonwealth:

- Virginia (COV) as an entity over a 2-year period is a \$54 billion organization, employing over 100,000 state employees in 91 state agencies.
- COV had 6 distinct mainframe platforms
- COV had 1,400 local area networks and countless more servers
- COV owns 52, 000 desktop devices; 34,000 peripherals - all intra-connected.
- All equipment operated separate and apart from each other. Management between agencies varied considerably depending upon agency size. Larger agencies had technical resources to implement new systems and run major projects. Smaller agencies did not.

Why VITA was created:

Over the years, large amounts of money had been spent on numerous aborted or failed projects. VITA was created:

- To put in place best practices as it related to procurement and the opportunity to aggregate purchases of commodity equipment across the enterprise.
- To have the ability to take advantage of large-scale procurements; thus driving savings to the bottom-line for the Commonwealth.
- To satisfy the need for a more intensive project management structure
- To have appropriate uniformity across the enterprise -- Operational efficiency. The ITIB would be responsible for developing standards and/or approving standards in an efficient and effective manner. IT would affect every aspect of state government.

The ITIB created as a supervisory Board. He referenced the Enactment Clauses 6 through 9, which gave the sequences of the consolidation of agencies based on agency size. Enactment Clause #9 was put in place to give the Board authority to accelerate or decelerate project plans, as the Board feels appropriate.

Delegate Nixon further stated that the effort of VITA is being watched across the country. State governments are aware of what has been done in Virginia, and the legislative and administrative branch have a great deal at state. He encouraged the members of the ITIB to contact them if they perceived that there was any aspect of the law that impaired their ability to fulfill their responsibilities.

Senator Stosch stated the VITA legislation was created in response to the findings of the JLARC Study and the Governor's Commission on Efficiency and Effectiveness on how the Commonwealth managed technology and resources. Two distinct reasons for problems that occurred were due to: (1) the structure of state government (the lack of continuity beyond the 4-year cycle) and (2) the confinement to a 2-year budget cycle.

Highlighted features of VITA legislation:

§2.2-2000 establishes VITA.

§2.2-2002 – Powers of CIO

The Board would hire the CIO for a 5-year contract period (This addresses the continuity issue and would allow the Board to recruit, hire, and supervise the CIO under contract as the Agency Head. The powers of the CIO are designated in this section.

Senator Stosch stated that the original concept of legislators was that the Board would be recruited, selected, identified, and appointed. After this process, the Board would meet with the legislators and the Administration, begin the search for the CIO, and hire him/her. The CIO would hire the necessary people to put the agency together and focus on implementing policies. However, because this process has been slightly altered, Senator Stosch expressed the importance of how the CIO is recruited.

§2.2-2452 – Article 18 - Information Technology Investment Board

The ITIB consist of: Three members appointed directly by the Governor; one member appointed by the Governor from a list supplied by Delegate May and Senator Stosch; four members appointed by Joint Rules Committee; The Secretary of Technology is a voting member; and the Auditor of Pubic Accounts is a non-voting member.

Duties and expectations:

- ITIB is designated as a supervisory board directly responsible for the operations of the executive branch agency (VITA), including the approval of requests for appropriations. The ITIB will consider the technology needs of the Commonwealth and place them in priority order, and make the recommendation to the General Assembly for requests for approval for appropriations. Out of 257 executive branch boards, councils, or commissions, only 50 boards are classified as supervisory.
- The supervisory board appoints the CIO and is directly responsible for ensuring that this individual complies with all directives and statutory directives.
- Approval/Disapproval of development all major information technology projects, including the authority to terminate those that are vested in the CIO.
- Approval of strategies, standards and priorities recommended by the CIO. Develop, understand, challenge and endorse strategies that are best for the Commonwealth.
- Approve the four-year plan for information technology projects
- Approve statewide technical and data standards for information technology and related systems
- Approve statewide information technology architecture and related set of system standards
- Approve criteria for the review and approval of the planning, scheduling and tracking of major information

Senator Stosch offered the Board the assistance of legislative and JLARC staffs and stressed a continued partnership.

Delegate May gave additional comments. He further stated that the IT reform endeavor couldn't afford to fail. The Board was chosen because of the skills needed for VITA's purpose and are very much equipped for the tasks. He reasserted that if there were any questions about the legislative intent or any suggestions, Board members should feel free to share their concerns.

Chairman Newstrom again thanked the legislators and opened the floor for questions from the Board. He referenced the original JLARC presentation and stated that about 85-90% of the findings in the report have been addressed.

Jimmy Hazel and Dr. Miller gave echoes of appreciation to the legislators for their support to the ITIB.

Senator Stosch suggested that the Board regularly invite members of the JLARC staff to appear before the Board, as they have been tasked on the legislative behalf to monitor the planning and implementation of VITA. He stated that the JLARC staff bring value to the process and the Board should consider them a regular part of the reporting mechanism. Chairman Newstrom reiterated the continued working relationship with JLARC staff and thanked Senator Stosch for his comments.

Hiram Johnson asked whether JLARC had had an opportunity to address the progress of the Board and VITA in implementing suggestions for remedies to JLARC's findings. Chairman Newstrom stated that Senator Chichester had invited him to speak at the October 30th meeting of the Senate Finance Committee. Per Senator Chichester, the staffs were to work together on what the issues were and how they were being addressed. A presentation is being prepared and the Board will be forwarded a copy prior to the October 30th meeting.

Election of Vice-Chairperson

Chairman Newstrom opened the floor for nominations for Vice-Chairperson of the ITIB. John Lee made a motion to nominate Dr. Mary Guy Miller. Len Pomata seconded motion. There being no further nominations or discussions, nominations were closed. The Board voted 8-0 (one member had left the room) in favor of Dr. Mary Guy Miller as Vice-Chairperson.

Final Approval of Interim By-Laws

As a carry-over from the August 5th meeting, interim-by-laws had been approved on an interim basis. Chairman Newstrom advised the Board that the purpose of this agenda item was to finalize the by-laws. John Westrick, ITIB Counsel, had indicated some concerns regarding the issue of the proxy of the Board.

Mr. Westrick referred to Article VII (A) (4) which reads:

“Each Board member shall have a single vote and must be present, in person or by telephone or videoconference (pursuant to Section 2.2-3707 (B), Section 2.2-3708 (A), and Section 2.2-3710) to exercise that vote. In the event a board member is unable to be present for a vote, the board member may elect to designate another board member as a proxy for voting purposes by submitting to the chair of the board a notarized letter indicating the designation of a proxy.”

He stated that the statute that governs the ITIB does not specifically authorize proxy voting. This by-law provision may not be effective, as it may lead to potential controversy, in that some members may choose to not attend meetings with the expectation that their vote may still count.

However, legally it will not. He recommended striking the last sentence in Article VII (A) (4) (In the event . . .), and not include the proxy provisions in the finalized by-laws.

He further stated that no changes to the by-laws could be made at this meeting and cited Article X (A), which reads:

“These by-laws may be waived or amended at any meeting of the board by a majority vote of those present, provided the notice of the substance of the proposed amendment is sent to all Board members at least five (5) days before the meeting.”

Mr. Hazel suggested that Board members pursue to the possibility of changing the Code of Virginia language regarding the proxy provision. Mr. Westrick agreed to provide examples of statutes that could be used a model for this change.

Mr. McGuirk questioned whether there is a need to have someone designate a proxy, with all technology means available today (teleconferencing, videoconferencing, web casting). He stated that it sends the wrong meaning that members must be physically present to conduct meetings.

Mr. Westrick stated that The Code of Virginia provides one option for electronic meetings, which is referred to in the interim by-laws. An uncodified statute provides a second means of holding electronic meetings. Both are available to the Board. If by-laws are finalized as written, the Board is choosing to use only one type of electronic meeting (requiring at least a quorum be physically assembled, additional members can participate electronically). The uncodified statute not referred to in the by-laws, does allow the quorum to meet electronically as well. Mr. Westrick would further research this matter.

Len Pomata recommended that electronic meetings constitute a quorum and vote. In addition, he stated that the Board give itself the option to have proxy votes when it might really be required.

Mr. McGuirk requested the Board consider the different scenarios where proxy vote might be permitted.

Mr. Westrick was requested to further research this issue and give guidance on electronic quorums, electronic voting, and electronic meetings and e-mail this information to the Board. In addition, he was requested to give clarifying language as stated in Code of Virginia, §2.2-3707(B), §2.2-3708 (A), and §2.2-3710, adding “or as permitted in 1999 Acts of Assembly, Chapter 704 as amended” and submit this information electronically to Board members. After reviewing this information, the Board will vote on the proxy issue at the next Board meeting.

Mr. Hazel suggested that this issue be tasked to a sub-committee so that there can be a by-laws amendment recommendation prepared five days in advance of the next Board meeting so that this issue can be not only discussed, but dealt with.

Overview of IT Supervisory Responsibilities

John Westrick distributed an “Overview of Supervisory Responsibilities of the ITIB.” The Delineation of Duties outlined the Board’s enabling legislation specifically assigns certain

supervisory duties of the Board (Code of Virginia - §§2-2-2458 and 2.2-2005(B). The Manner of Exercising Duties outlined the expectation of the Board with full adherence to fiduciary principles and fiscal responsibility. There is no specific statutory guidance in the manner of exercising duties. Fiduciary responsibilities were covered in three areas: undivided loyalty; conflicts of interest; and prudent management. Two additional practical concerns addressed delegating performance of specific duties of the Board and the reliance on others.

Mr. Kucharski questioned what actions is the Board required to take if it chooses not to rely upon information given by others, and if a Board member has reason to question a presentation or reliance, does that member have a responsibility to the Board to disclose the information. Mr. Westrick concurred that the due diligence would be violated if the Board member were not to disclose this information.

Mr. Pomata whether there is insurance or indemnification by the state in cases where lawsuits may arise due to the Board's involvement in controversial decisions in terms of procurement, etc.. Mr. Westrick there is a qualified immunity to protect discretionary actions by governmental officials. As long as the act is in good faith, there would be a healthy range of discretion immune from lawsuit. Also, the state has a self-insurance program through the Division of Risk Management that provides liability protection for officers and employees who are held liable on account of the performance of official duties. Mr. Westrick will confirm this information with the Board.

Mr. Hazel asked that if a suit were filed based on what might be regarded as a violation to a personnel action, if the Attorney General's Office would serve as legal counsel. Mr. Westrick concurred.

Chairman Newstrom asked under what general guidance could the Board go into executive session. Mr. Westrick stated that there should be a very specific exception that covers the specific topic to be discussed. The Freedom of Information Act (FOIA) list specific instances when a Board can go into an executive or "closed session." Some examples are for legal advice and personnel issues. Board members should refer to FOIA for guidance. He further stated that in closed session, there is no action taken. There is no requirement to take minutes. If taken, minutes will be exempt under FOIA. There is no vote to come out of closed session. When members come back into open session, if an action is to be taken based on the closed session, the substance of what the vote is must be expressed publicly.

Ms. Witherspoon was requested to forward copies of the FOIA provisions that list reasons a board can go into closed session.

The Board returned to the discussion regarding By-Laws. Hiram Johnson recommended revisions as follows:

Page 3, Article V:

(D) ~~Act in behalf of the board~~ As directed by the Board, to hire and determine compensation/benefit package for the CIO.

(E) ~~Supervise~~ Provide guidance to the CIO on a day-to-day basis

(F) ~~Act in behalf of~~ Represent the Board in any matters related to VITA.

Page 4, Article VI

(J) Completing all other duties and responsibilities as assigned by the ~~Secretary of Technology~~ IT Investment Board.

The amended by-laws, in addition to information requested from John Westrick regarding electronic meetings/open meetings/quorums and electronic voting will be sent to the Board five days prior to the next meeting and the final by-laws will be discussed at that time.

The ITIB recessed for lunch at 12:20 p.m. and reconvened at 1:00 p.m.

Chief Information Officer (CIO): Search Process Update

Len Pomata reported that the McCormick Group had been engaged. The CIO position description had been finalized and was distributed to the Board. A draft MOU will be finalized by the end of the week (10/17/03) or early the following week. The general schedule is:

- New CIO hired by end of December or early January
- Complete sourcing by end of October or early November (have identified as many candidates that are qualified by the McCormick Group by end of month.)
- Look at identified candidates to get it down to a smaller group in November
- Depending upon the number of qualified candidates will result in small group to be interviewed in detail by the Board and CIO Search Committee.

The Search Committee will communicate with the Board regarding the specific schedules when interview processes are in place so that Board members can attend the interview meetings. Mr. Westrick stated that when interviews are conducted to interview final selection of candidates with the full Board, the Board may enter into executive session.

Mr. Pomata stated that the CIO position would be advertised externally around the country as well as posting the position internally within state government. The Search Committee will begin to formulate specific contract language in terms of conditions and finalize the compensation package. He further stressed the importance of confidentiality relating to names of individuals who are interviewed for the position and suggested that a process be put in place resumes could be transmitted electronically between various members without being disseminated outside the required group.

Chairman Newstrom reemphasized the importance of confidentiality. The CIO job description has been staffed both internally and externally, with input from The McCormick Group. A salary survey is being developed with advice from the staff at DHRM, as well as external input. The McCormick Group has been requested to provide a market analysis, and a benefits structure has been reviewed similar to that of the current state benefits structure to include a retirement

package. The chairman commended the work of the Search Committee, and thanked them for the time and effort devoted to the process.

VITA Funding Process

Chairman Newstrom stated that a large part of the responsibilities of the IT Investment Board was to help define how agencies and entities within Virginia buy, acquire, and utilize technology in their business. A component of that is not only a budget for VITA, but also how monies are allocated to the agencies that VITA serves. He introduced Austin Matthews, VITA Chief Financial Officer, who presented the VITA Funding Process.

Mr. Matthews' presentation outlined the VITA funding information, manpower levels, the current and proposed funding model, the and challenges and concerns of VITA, and the general budget process and upcoming milestones. During the presentation, discussion ensued and questions from Board members were addressed. A copy of the presentation is attached.

At the conclusion of the presentation, the Board was asked if their desire was to review interim rates prior to submitting them to JLARC on 10/24/03. Chairman Newstrom stated that had informed Senator Stosch and Delegate May (per his letter dated 10/1/03) that they would be informed of any major decisions made by the Board. He stated that since there is no official meeting of the Board scheduled between now and the remainder of the year, an hoc meeting would be scheduled to discuss the CIO search and the approval of interim rates.

Mr. Kucharski asked if the Board has a legal responsibility to approve rates prior to submitting to JLARC. Mr. Pomata recommended that the Board review the rates, but requested to review the basis for construction of the rates, derivation of the rates, and the basis for the rate computation, if available. VITA staff will submit this information to the Board prior to 10/24/03.

Hiram Johnson requested John Westwick to review the statute and advise the Board if it is legally required to approve interim rates. Jimmy Hazel stated that if the board is to have the numbers on which rates are developed prior to 10/24, there would be an understanding with JLARC that if, per legal counsel, the Board has a legal responsibility to approve the rates, the Board could use the November 10th meeting to reconsider rates.

VITA Technologies Priorities Discussion

Per the previous ITIB meeting, the Board asked VITA staff for specific information in regards to a logical way to prioritize the 138 projects brought before the Board, aside from one or two projects per agency. Dan Ziomek and VITA staff pulled together 26 projects and reviewed their priority ratings with members of the Cabinet.

This presentation covered the following areas: A copy of the presentation is attached.

- Consolidation Enterprise Projects
- Review of Interim Procedures for IT Project Approval
- Proposed Evaluation Criteria for ITIB Development Approval
- Board Approval of Specific VDOT Projects

Mr. Ziomek referred to the spreadsheet that list projects in priority order. He stated that some of the projects that had been initially ranked by Secretariats were requested to be removed from the list or were substituted. Mr. Kucharski inquired as to the ranking of the substitutes. Mr. Ziomek stated that if projects were substituted, the lowest ranked project in that Secretariat was pulled and replaced with the substitute.

Mr. Kucharski stated that the spreadsheet would be an extremely helpful appendix to the September 1st Report. He suggested that the report should be amended, or the spreadsheet sent as an adjunct to the Report denoting a ranking of projects in priority. Therefore, if a decision had to be made, working with a limited amount of funds, the top ten projects in the state would be designated for funding.

Chairman Newstrom stated that with the Board's approval, the VITA staff would send the Priority Technology Investment Projects for the 2004-2006 Budget Biennium to the Governor and General Assembly.

To approval of major projects, the Board was referred to a handout entitled "CIO Recommendation to the Information Technology Investment Board for Project Development Approval" and the Charter for the VDOT Project. The recommendation was that the ITIB grant development approval for Phase I of the VDOT FMS II Project and authorize the Chairman of the ITIB to approve the Project Charter on behalf of the Board. By approving the Charter, the project is essentially initiated.

In his capacity as CIO, Chairman Newstrom presented the VDOT Project for approval. He captured the agency's culture change under the direction of its Commissioner, and stated that VDOT could be used as the model for project development. There is great aspiration to have VDOT come on board with VITA. He stated that VDOT will return to the Board with the definitive plan as to how the project will be done by VITA. After discussion, Mr. Hazel made a motion that the ITIB approve Phase I of the Financial Management System Project as outlined in the Project Charter. Mr. McGuirk seconded the motion. There being no discussion, the vote was carried unanimously.

Other Business

Chairman Newstrom stated that at the last Board meeting, the subject of forming sub-committees was discussed. Presently, there is a CIO Search Sub-committee, headed by Len Pomata. He suggested the formation of three additional sub-committees to assist the Board with its workflow. He recommended the formation of the following sub-committees:

- Finance sub-committee to be headed by Scott Pattison to assist Austin Matthews and the VITA financial staff with the funding process;
- Legislative Review Sub-committee to be headed by Jimmy Hazel to assist with recommending legislation for the upcoming session; and the
- Technology Priority Sub-committee to be headed by James McGuirk to work with Dan Ziomek and the VITA Project Management Division in refining the criteria and metrics for project management, as well as recommend project approval to the Board.

The Board agreed that the Chairman would send an e-mail recommending initial assignments to committees and Board members would have the opportunity to revise as necessary. It was decided that additional sub-committees could be formed as needed.

Jimmy Hazel recommended that at some future meeting the Board be briefed on the Public Private Education Act (PPEA). The PPEA is aimed at education infrastructure and got amended to allow private sector entities to be created in bringing forward unsolicited proposals for consideration by the Commonwealth that might help advance a major infrastructure issue that would include technology. He stated that are looking at bringing forward technology proposals to the ITIB. Chairman Newstrom stated that this would be an agenda item for the next ITIB meeting.

Mr. Hazel stated that since there is no scheduled meeting for the remainder of the year, and given the workload facing the Board, his recommendation would be that the Board have at least two additional meeting between now January 7, 2004, but a minimum of one. Chairman Newstrom stated that possible ad hoc meetings will take place in early November and early December. Roz Witherspoon will communicate recommended dates.

Public Comment

Secretary Newstrom opened the floor to public comment. There was none.

Adjourn

Secretary Newstrom thanked the members for coming and adjourned the meeting at 4:40 p.m.